

of unfounded or unsubstantiated assumptions regarding the effect upon loan risk of the age of a dwelling or the physical or economic characteristics of an area. Loan decisions should be based on the present market value of the property offered as security (including consideration of specific improvements to be made by the borrower) and the likelihood that the property will retain an adequate value over the term of the loan. Specific factors which may negatively affect its short-range future value (up to 3–5 years) should be clearly documented. Factors which in some cases may cause the market value of a property to decline are recent zoning changes or a significant number of abandoned homes in the immediate vicinity of the property. However, not all zoning changes will cause a decline in property values, and proximity to abandoned buildings may not affect the market value of a property because of rehabilitation programs or affirmative lending programs, or because the cause of abandonment is unrelated to high risk. Proper underwriting considerations include the condition and utility of the improvements, and various physical factors such as street conditions, amenities such as parks and recreation areas, availability of public utilities and municipal services, and exposure to flooding and land faults. However, arbitrary decisions based on age or location are prohibited, since many older, soundly constructed homes provide housing opportunities which may be precluded by an arbitrary lending policy.

(8) *Fair Housing Act (title VIII, Civil Rights Act of 1968, as amended)*. Savings associations must comply with all regulations promulgated by the Department of Housing and Urban Development to implement the Fair Housing Act, found at 24 CFR parts 100 through 125, except that they shall use the Equal Housing Lender logo and poster prescribed by OCC regulations at 12 CFR 128.4 and 128.5 rather than the Equal Housing Opportunity logo and poster required by 24 CFR part 110.

(d) *Marketing practices*. Savings associations should review their advertising and marketing practices to ensure that their services are available without discrimination to the commu-

nity they serve. Discrimination in lending is not limited to loan decisions and underwriting standards; a savings association does not meet its obligations to the community or implement its equal lending responsibility if its marketing practices and business relationships with developers and real estate brokers improperly restrict its clientele to segments of the community. A review of marketing practices could begin with an examination of an association's loan portfolio and applications to ascertain whether, in view of the demographic characteristics and credit demands of the community in which the institution is located, it is adequately serving the community on a nondiscriminatory basis. The OCC will systematically review marketing practices where evidence of discrimination in lending is discovered.

§ 128.10 Supplementary guidelines.

The policy statement found at 12 CFR 128.9 supplements this part and should be read together with this part. Refer also to the HUD Fair Housing regulations at 24 CFR parts 100 through 125, Federal Reserve Regulation B at 12 CFR part 202, and Federal Reserve Regulation C at 12 CFR part 203.

§ 128.11 Nondiscriminatory appraisal and underwriting.

(a) *Appraisal*. No savings association may use or rely upon an appraisal of a dwelling which the savings association knows, or reasonably should know, is discriminatory on the basis of the age or location of the dwelling, or is discriminatory per se or in effect under the Fair Housing Act of 1968 or the Equal Credit Opportunity Act.

(b) *Underwriting*. Each savings association shall have clearly written, nondiscriminatory loan underwriting standards, available to the public upon request, at each of its offices. Each association shall, at least annually, review its standards, and business practices implementing them, to ensure equal opportunity in lending.

NOTE TO § 128.11: See also, § 128.9(b), (c)(6), and (c)(7).

PARTS 129–140 [RESERVED]